

MT LEGISLATIVE HISTORY

Chapter 408 1971

Bill H (S) 294

Original bill & hist. C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Feb 18 ✓ C

Hearing Date(s) Jan 30 ✓ C

Feb 20 ✓ C

Feb 04 ✓ C

              C

              C

              C

              C

Date Out Feb 20 ✓ C

Feb 04 ✓ C

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Did this bill originate in an interim committee?        Yes        No

Committee       

Report

**SENATE JUDICIARY COMMITTEE MEETING--January 30, 1971**

The meeting was called to order by the Chairman, Senator Gilfeather. All the members were present with the exception of Senator Sheehy and Senator Vainic.

Senate Bill 224 was brought before the committee by Senator Hafferman and discussed briefly by him. After a brief deliberation Senator Turnage MOVED THAT SENATE BILL 224 DO NOT PASS. Senator Hafferman did not vote as did the other committee members; he voted "no" and asked that it be recorded.

Senate Bill 239 was considered by the committee. Chairman Gilfeather put this bill in subcommittee of Senators Turnage, Moore and Stephens, to report back on it February 2.

Senate Bill 242 was discussed by the committee. It was decided to ask Mr. Kellner of the Department of Institutions to appear at hearing of the bill, which was set for Monday, February 1, on adjournment.

The committee discussed Senate Bill 332 and MOVED THAT SENATE BILL 332 DO NOT PASS.

Senate Bill 317 was discussed by Chairman Gilfeather, Senator Turnage and others and it was given a DO PASS.

Senate Bill 314 was explained by Senator Turnage. There was a discussion on this by Senators Gilfeather, Turnage and Rehberg. IT WAS MOVED THAT SENATE BILL 314 DO PASS.

Senate Bill 308 was read by Senator Gilfeather. He set it for hearing on February 2.

Senate Bill 307 was brought before the committee and the Chairman set it for hearing on February 2.

Senate Bill 294 was discussed by Senators Turnage, Senator Shea and others. It was set for hearing February 4.

Senate Bill 286 was presented to the committee and the Chairman set it for hearing February 3.

Senate Bill 310 was presented to the committee and the Chairman set it for hearing February 3.

There being no further business to come before the committee, the meeting was adjourned.

  
SENATOR P. J. GILFEATHER, CHAIRMAN

**SENATE JUDICIARY COMMITTEE MEETING--February 4, 1971**

The meeting was called to order by the Chairman, Senator Gilfeather.

The committee had before it Senate Bill 332, which was explained briefly by Senator Lynch.

Senator Lynch then introduced Mr. George Anderson, a former Representative of the House, who spoke in favor of this bill. Then Senator Turnage said, regarding this bill, that he would like to see the present law changed. Senator Shea mentioned that George Anderson served for four terms in the House of Representatives. The Chairman asked if any further questions. There were none. The Chairman said the committee would take this matter under advisement and the witness, also one guest, Father Gary Young of the Episcopal church, left the meeting.

Senate Bill 294 was brought before the committee. It was explained by Senator Lynch. Senator Lynch then introduced Mr. Don Garrity, a Helena attorney, who spoke in favor of this bill. He recommended an amendment to the bill and read it. Mr. Charles Mercord of the First Federal Savings and Loan, Kalispell, was introduced. He spoke supporting the bill. Mr. Fritz Weed, owner of the Helena Abstract and Title Company of Helena, spoke supporting the bill, as did Mr. Noral Johnson, President of the Helena Home Builders Association and Mr. Jack Peterson an attorney from Butte, a member of the Montana Savings & Loan League.

At the conclusion of these proponents' statements the Chairman asked if there were any questions. There were from Senators Stephens, Shea and Turnage. Senator Turnage suggested an amendment to this bill. Chairman Gilfeather had a question at this point, as did Senator Vainio and Ross Canon, a Helena attorney and proponent. The Chairman asked if any further questions, or rebuttal. There was none. The Chairman thanked the visitors for coming and they left.

Senate Bill 310 was explained by Senator Lynch. Discussion by the committee followed.

Senate Bill 285 was explained by Senator Lynch. At the conclusion the Chairman asked if there was further testimony and also if any questions. Senator Shea had a question on this bill. Then the Chairman assigned Senators Vainio and Sheehy to a subcommittee for further study of this bill.

SENATE JUDICIARY COMMITTEE MEETING--February 4, 1971

This meeting was on adjournment

Senate Bill 246 was taken up by the committee and Senator Hafferman moved it be amended by re-inserting subsection 2 and re-numbering in correct sequence. This was seconded by Senators Turnage and Moore and SENATE BILL 246 was given an AMENDED, DO PASS by the committee. Senator Hafferman MOVED THAT SENATE BILL 246, AS AMENDED DO PASS. The motion was carried.

Regarding Senate Bill 92 the committee considered this bill and deliberated on it some more.

Senate Bill 24 was mentioned and it still remains in subcommittee for further study.

With regard to Senate Bill 32, Senator Moore reported that he will look for the House Bill which corresponds to it.

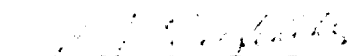
Senate Bill 310 was considered by the committee and it was MOVED BY SENATOR SHEEHY, SECONDED BY SENATOR TURNAGE THAT SENATE BILL 310 DO NOT PASS. THE MOTION WAS CARRIED.

Senate Bill 294 was brought before the committee. IT WAS MOVED, BY SENATOR SHEEHY, AND SECONDED BY SENATOR HAFFERMAN THAT SENATE BILL 294 DO PASS. Senator Shea stated he wanted his vote recorded as "No" in the minutes.

Senate Bill 332 was considered and Senator Turnage moved the amendment of section 1, page 1, subsection (c) by omitting this section in its entirety and inserting in lieu thereof the following:

"(c) If at any time within-thirty-(30)-days ninety (90) days after the forfeiture the defendant or his bail appears and satisfactorily excuses his negligence or failure to comply with the conditions of the bail, the court in its discretion, may direct the forfeiture of the bail to be discharged upon such terms as may be just."  
Senator Turnage MOVED THAT SENATE BILL 332, AS AMENDED, DO PASS. This was SECONDED BY SENATOR MOORE.

The meeting was adjourned.

  
SENATOR P. J. GILFEATHER, CHAIRMAN

February 18, 1971

JUDICIARY COMMITTEE

The meeting was called to order in room 300 of the capitol on Thursday, February 18 at 9 a.m. with Chairman Jeffrey J. Scott presiding. All members were present.

**SENATE BILL 34** Senator Thiessen gave a description of this bill which provides that the order discharging an executor or administrator must be made within 2 years. There were no further witnesses and no questions were asked.

**SENATE JOINT RESOLUTION** Representative Dzivi gave a description of this resolution, which requests and directs the criminal law commission to submit a separate bill for each chapter of the proposed criminal code revision to be submitted to the 43rd legislative assembly. There were no further witnesses, no questions were asked and the hearing on this bill was closed.

**SENATE BILL 314** Senator Gilfeather explained the contents of this bill, which provides for recording of abstracts of instruments and provides for constructive notice thereof. Senator Turnage gave a statement in support of this bill. There were no further witnesses, questions were asked and the hearing on this bill was closed.

**SENATE BILL 102** Senator Lynch gave a statement describing this bill, which provides false arrest insurance for sheriffs and sheriffs' departments. Mr. Don Garrity, representing the Montana Sheriff's & Peace Officers' Association, gave a statement in support. There were no further witnesses, questions were asked and the hearing on this bill was closed.

**SENATE BILL 294** Senator Lynch gave a description of this bill which would shorten the period for filing mechanics' liens by providing for filing of a notice of completion. Mr. John L. Peterson, representing the Montana Saving and Loan League, gave testimony in support of this bill. Mr. Don Garrity, representing the Montana Savings and Loan League, also gave a statement in support. There were no further witnesses, questions were asked and the hearing on this bill was closed.

**SENATE BILL 242** Mr. Edwin G. Kellner, Director of the Department of Institutions, gave testimony in support of this bill, which relates to recommitment of sentence of persons under the age of 21 who had been sentenced to the prison and to the commitment of such person to the

NAME

*Donna*

BILL NO.

*57244*

ADDRESS

DATE

*2/17/71*

WHOM DO YOU REPRESENT?

*North North Wales Assoc*

SUPPORT?

☒ OPPOSE?

AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME

Don Garity

5 BILL NO. 294

ADDRESS

422 N. Park

DATE 2-18

Helena

WHOM DO YOU REPRESENT?

Montana Savings & Loan League

SUPPORT?

X

OPPOSE?

AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME

ADDRESS

Senate

BILL NO.

DATE

WHOM DO YOU REPRESENT?

SUPPORT?

OPPOSE?

AMEND?

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



February 20, 1971

JUDICIARY COMMITTEE

The meeting was called to order in room 300 of the capitol at 9 a.m. on Saturday, February 20 with Chairman Jeffrey J. Scott presiding. All members were present with the exception of Mr. Mather, Mr. McNamer, and Mr. Warfield.

SENATE BILL 319                      Senator Shea gave a description of this bill, which would prevent an insurer from refusing to sell insurance on the grounds that the applicant has not purchased other types of insurance from the insurer. There were no further proponents. Mr. Chadwick Smith, representing the American Mutual Alliance, gave a statement in opposition to this bill as far as the penalty was concerned. No questions were asked and the hearing on this bill was closed.

SENATE BILL 95                      Senator Lynch from District 73 gave an explanation of this bill which provides for parents surviving minor decedents in proceedings in lieu of probate where estates are less than \$10,000. There were no further witnesses. One question was asked and the hearing on this bill was closed.

SENATE BILL 101                     Senator Lynch gave an explanation of this bill, which would raise justices' of peace salaries. There were no further witnesses. No questions were asked and the hearing on this bill was closed.

SENATE BILL 286                     Senator Lynch gave a description of this bill, which relates to succession to and distribution of estates. Mr. George Sarsfield, an attorney from Butte, representing himself, gave testimony in support of this bill. There were no further witnesses. Questions were asked and the hearing on this bill was closed.

EXECUTIVE SESSION

SENATE BILL 294                     Mr. Hall moved to amend section 3, page 3, lines 9 through 14 by striking all of this section and inserting "section 3. Notice of completion. (1) The owner may file a notice of completion at any time after the completion of any work or improvement." Motion carried.

Mr. Hall further moved to amend on page 2, lines 28 through 30 subsection (3) by striking all the underlined material on these lines and inserting the material "(3) The following acts or events constitute 'completion of any work or improvement' for the purpose of filing a notice of completion:" Motion carried.

Mr. Hall moved to further amend on page 1, section 1, lines 25 through 29 by striking all the underlined material on these lines.

Motion carried. A motion was made that Senate Bill 294 BE CON-  
CURRED IN AS AMENDED. Motion carried. Mr. Towe will carry  
this bill in the House.

SENATE BILL 242

Mr. Hall made a motion that this bill  
be amended on page 2, line 14, after the  
word "upon" by inserting the material "the approval of the inmate".  
This motion failed. A motion was made that the bill be amended  
on page 2, line 9 after the word "warden" by inserting the  
material "and approval of the inmate or upon application of an  
inmate and approval of the warden." This motion carried. There  
was some discussion and Mr. Hall moved to reconsider the motion  
on the amendment. Motion carried. Mr. Hall moved that the amend-  
ment be placed on line 15, page 2, after the word "warden". Motion  
carried. Mr. Greely moved that the material "inmate of" be  
stricken and the material "person sentenced" inserted in lieu  
thereof. Motion carried. There was a motion that Senate Bill  
242 BE CONCURRED IN AS AMENDED. Motion carried.

SENATE BILL 319

Mr. Bennett moved that Senate Bill 319  
BE NOT CONCURRED IN. Motion carried.

SENATE BILL 95

Mr. Bennett moved that Senate Bill 95  
BE NOT CONCURRED IN. Motion carried.

SENATE BILL 101

Mr. Greely moved that Senate Bill 101  
BE NOT CONCURRED IN. Mr. Towe made  
a substitute motion that Senate Bill 101 be concurred in. Mo-  
tion failed. Mr. Greely moved that Senate Bill 101 BE NOT CON-  
CURRED IN. A vote was taken, there were four for the motion  
and four against. A motion was made that the bill be passed  
for the day. Motion carried.

SENATE BILL 286

A motion was made that Senate Bill  
286 be concurred in. A substitute  
motion was made that the bill be passed for the day. Motion  
carried.

There was a motion that the meeting be adjourned. Motion carried.

Jeffrey J. Scott, Chairman

~~Alice O'Connell~~  
Alice O'Connell, Secretary

## CHAPTER NO. 408

An Act to Shorten the Period for Filing Mechanics' Liens  
By Providing for Filing of a Notice of Completion and  
Amending Sections 45-501 and 45-502, R.C.M., 1947.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Amending clause. Section 1. Section 45-501, R.C.M., 1947, is amended to read as follows:

Mechanics' lien provided.

"45-501. **Who entitled to lien.** Every mechanic, miner, machinist, architect, foreman, engineer, builder, lumberman, artisan, workman, laborer, and any other person, performing any work and labor upon, or furnishing any material, machinery, or fixture for, any building, structure, bridge, flume, canal, ditch, aqueduct, mining claim, coal mine, quartz lode, tunnel, city or town lot, farm, ranch, fence, railroad, telegraph, telephone, electric light, gas, or waterworks or plant, or any improvements, upon complying with the provisions of this chapter, for his work or labor done, or material, machinery or fixtures furnished, has a lien upon the property upon which the work or labor is done or material is furnished."

Amending clause. Section 2. Section 45-502, R.C.M., 1947, is amended to read as follows:

Procedure.

"45-502. **How lien perfected** (1) Every person wishing to avail himself of the benefits of this chapter must file with the county clerk of the county in which the property or premises mentioned in the preceding section is situated, and within ninety days after the material or machinery aforesaid has been furnished, or the work or labor performed, a just and true account of the amount due him, after allowing all credits, and containing a correct description of the property to be charged with such lien, verified by affidavit, but any error or mistake in the account or description does not affect the validity of the lien, if the property can be identified by the description; which paper containing the account, description, and affidavit is deemed the lien, and when there is an open account between the parties for labor, material, or machinery, such lien may be filed within ninety days after the date of the last item in such account, and include all items and charges contained therein, for material or machinery furnished for, or work performed on, the property on which the lien is claimed.

Filing with county clerk—within 90 days.

Account.

Description of property—verified by affidavit.

Open account—90 days after last item.

(2) *The time within which to perfect the lien by filing of the notice of lien is shortened if the provisions of section 3 of this act are complied with and a notice of completion is timely filed, in which event such notice of lien must be filed within sixty (60) days immediately following the first publication of the notice of completion.*

Notice of completion.

Filing lien within 60 days.

(3) *The following acts of events constitute "completion of any work or improvement" for the purpose of filing a notice of completion:*

(a) *The written acceptance by the owner, his agent or his representative of the building, improvement or structure. The filing of a notice of completion shall not be considered as an acceptance of the building, improvement, or other structure.*

Written acceptance.

(b) *The cessation from labor for thirty (30) days upon any building, improvement or structure, or the alteration, addition to or repair thereof."*

Cessation of labor for 30 days.

Section 3. **Notice of completion.** (1) The owner may file a notice of completion at any time after the completion of any work or improvement.

Owner may file notice of completion.

(2) The notice of completion together with an affidavit of publication as hereinafter required shall be filed in the office of the county recorder of the county where the property is situated and the notice shall set forth:

Affidavit of publication.

Notice requirements.

(a) The date when the work or improvement was completed, or the date on which cessation from labor occurred first and the period of its duration.

Date.

(b) The owner's name or owners' names, as the case may be, the address of the owner or addresses of the owners, as the case may be, and the nature of the title, if any, of the person signing the notice.

Name.

(c) A description of the property sufficient for identification.

Description of property.

(d) The name of the contractor, if any.

Contractor.

(3) The notice shall be verified by the owner or his agent.

Verification.

(4) A copy of the notice of completion shall be published once each week for three successive weeks in a newspaper of general circulation in the county where

Publication—notice of completion.

the land on which the work or improvement was performed is situated.

Approved March 18, 1971.

#### CHAPTER NO. 409.

An Act to Provide an Emergency and Disaster Fund for the Governor to Be Implemented by the Department of Administration, Authorizing the Governor to Expend Not to Exceed Seven Hundred Fifty Thousand Dollars (\$750,000) per Biennium from the General Fund, and an Immediate Effective Date.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. The governor may authorize the incurring of liabilities and expenses to be paid as other claims against the state from the general fund, in the amount necessary, when an emergency or disaster justifies the expenditure and is declared by the governor, to meet contingencies and emergencies arising from hostile attacks, riots or insurrections, epidemics of disease, plagues of insects, fires, floods or other acts of God resulting in damage or disaster to the works, building or property of the state or any political subdivision thereof, or which menace the health, welfare, safety, lives or property of any considerable number of persons in any county or community of the state, upon demonstration by the political jurisdiction that such political jurisdiction has exhausted all available emergency levies, that the emergency is beyond the financial capability of the political jurisdiction to respond, and for which no appropriation is available in sufficient amount to meet the emergency or disaster, or that federal funds available for such emergency or disaster require either matching state funds or specific expenditures prior to eligibility for assistance under federal laws.

Section 2. Whenever an emergency or disaster is declared by the governor, he is authorized to expend from the general fund not to exceed seven hundred fifty thousand dollars (\$750,000), in any one (1) biennium.

Section 3. The governor shall be charged with the implementation of the program, and the administration

Governor may authorize expenditures for emergencies—disaster fund.

Maximum—\$750,000 per biennium.

Duties of governor.

and development of rules and regulations for implementation of this act will be promulgated by the Department of Administration.

Section 4. In order to preserve the public peace, health, welfare and safety, this act shall become effective upon its passage and approval. Effective immediately.

Approved March 18, 1971.

#### CHAPTER NO. 410.

An Act to Amend Section 92-206, R.C.M., 1947, to Permit Private Contractors Engaged in the Performance of Contract Work for Public Corporations to Provide Workmen's Compensation Insurance Under Plans No. 2 or 3, as Provided in the Workmen's Compensation Act.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. Section 92-206, R.C.M., 1947, is amended to read as follows: Amending clause.

"92-206. **Compensation plan No. 3 exclusive, etc., when a public corporation is the employer.** Where a public corporation is the employer, the terms, conditions, and provisions of compensation plan No. 3 shall be exclusive, compulsory, and obligatory upon both employer and employee. Any sums necessary to be paid under the provisions of this act by any public corporation shall be considered to be ordinary and necessary expense of such corporation, and the governing body of such public corporation shall make appropriation of and pay such sums, into the accident or administration fund, as the case may be, at the time and in the manner provided for in this act, notwithstanding that such governing body may have failed to anticipate such ordinary and necessary expense in any budget, estimate of expenses, appropriations, ordinances, or otherwise. *Whenever a contractor is engaged as an employer in the performance of contract work for a public corporation, such employer must elect to be bound by the terms, conditions and provisions of either compensation plan No. 2 or compensation plan No. 3, and the terms, conditions and provisions of the plan chosen shall be compulsory and obligatory upon both employer and employee.*

Compensation plan No. 3 compulsory for public corporation.

Contractor for public corporation election—plan no. 2 or plan no. 3.